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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

4017-03001

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on October 12, 2005

Signature _____

Typed or printed name Jean Brown

Application Number

09/954,976

Filed

September 18, 2001

First Named Inventor

Surendra N. Naidoo

Art Unit

2613

Examiner

Tung T. Vo

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record.
Registration number 31,745☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Signature

Michael S. Bush

Typed or printed name

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Telephone number

October 12, 2005

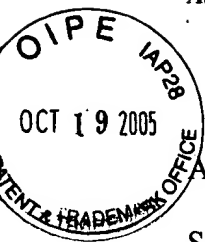
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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Surendra N. Naidoo et al.

Serial No.: 09/954,976

Filed: September 18, 2001

For: VIDEO SECURITY SYSTEM

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Group Art Unit: 2613

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Examiner: Vo, Tung T.

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Confirmation No.: 8803

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Jean Brown

REASONS FOR REQUESTING PRE-APPEAL BRIEF REVIEW

Applicants have requested a *Pre-Appeal Brief Review* of this application. Reasons (1) through (3) for requesting this *Review* are set forth below:

1. The Examiner has failed to establish that Claims 1, 5 and 13 are anticipated by U.S. Patent No. 6,385,772 to Courtney

Independent Claim 1 is directed to a security system which includes a security gateway located at a premises being monitored and a security system server coupled to the security gateway by first and second networks. A notification of an alarm condition and an alarm video are transferred from the security gateway to the security system server over the first network in substantially real time. The notification of the alarm condition is also transferred from the security gateway to the security system server over the second network substantially simultaneously with the notification over the first network.

In rejecting Claims 1, 5 and 13 as anticipated by Courtney, the record clearly indicates that the Examiner has failed to establish that Courtney explicitly or inherently teaches each and

every element of Claims 1, 5 and 13. Claim 1 specifically recites that the security system includes first and second networks for substantially simultaneously transmitting the same information—notification of an alarm condition—between a security gateway and a security server. In response, the Examiner has cited Courtney as disclosing networks 38 and 41 for transferring information between computer 24 and base station 36. While the network 41 may arguably transport an alarm notification between the computer 24 and the base station 36, in apparent recognition that the network 38 transfers a video image and not an alarm condition, the Examiner has repeatedly stated that “other networks can be used for transmitting the notification to the remote locations as **suggested** by Courtney.” Office Action dated May 12, 2005, pg. 3, lines 9-10, Advisory Action dated August 31, 2005, pg. 2, lines 8-9 (emphasis added).

The Examiner has also failed to assert that Courtney discloses the substantially simultaneous transport of information from the security gateway to the security server over the first and second networks, respectively. The Examiner first addressed this limitation in the Advisory Action of August 31, 2005. Here, the Examiner stated that “[t]he computer (24 of fig. 1) can also transmit the notification to the portable user and can make a call to notify a portable user (46 of fig. 1) **at the same time** through the telephone line 41.” Advisory Action dated August 31, 2005, pg. 2, lines 15-16 (emphasis added). Not only is such a characterization inconsistent with the Examiner’s prior characterization of the computer 24 as forming part of a security gateway and the base station 36 as forming a security system server, it fails to explain how two separate notifications of an alarm condition may be transported to the portable user 46 (which, presumably, has now become the security system server for purposes of receiving alarm notifications) when the portable user 46 lacks any direct coupling to the computer 24 and has only a single coupling—RF link 49—to the base station 36.

2. The Examiner has failed to establish that Claims 1, 3-24 and 26-31 are anticipated by U.S. Patent Publication 2002/0005894 to Foodman et al.

In rejecting Claims 1, 3-24 and 26-31 as anticipated by Foodman, the record again indicates that the Examiner has failed to establish that Foodman teaches each and every element of these claims. Specifically, the Applicants note the following statements, made in support of the rejection of Claims 1, 3-24 and 26-31 as anticipated by Foodman, that clearly evidence the Examiner's failure to establish that Foodman anticipates Claims 1, 3-24 and 26-31:

1. "a security system (311 of fig. 3B-1 and a website (321 of fig. 3B-2) **are considered as a gateway security system that transmits...**" Advisory Action, pg. 2, lines 20-21 (emphasis added);
2. "the multiple remote locations and interested parties (31, 323, 327, 329, 330 and 331 of fig. 3B) **are considered as a gateway server...**" Advisory Action, pg. 3, lines 2-4 (emphasis added); and
3. "This **suggests** the gateway server can communicate with first, second and third networks." Advisory Action, pg. 3, lines 20-21 (emphasis added).

3. The Examiner has failed to establish a prima facie case of unpatentability of Claims 20-24 and 26-31

Notwithstanding the foregoing assertion that the Examiner has failed to establish that Claims 1, 3-24 and 26-31 are anticipated by Foodman, the Applicants further submit that the Examiner has clearly failed to establish a prima facie case of unpatentability of Claims 20-24 and 26-31.

Independent Claim 20 is directed to a security system which includes a security gateway located at a premises being monitored and a security system server coupled to the security gateway. The security system further includes first, second and third networks—the first network coupling the security gateway to a cable headend, the second network coupling the

cable headend to the security system server and the third network coupling the security gateway to the security system server. Thus, there are two parallel paths between the security gateway and the security system server—a first path comprised of the first network, the cable headend and the second network and a second path comprised of the third network. The first recitation, in the claims, of the security system as including first, second and third networks was set forth in original dependent Claim 25 and later incorporated into independent Claim 20.

In an Office Action dated September 2, 2004, the Examiner issued a first rejection of Claims 20-31 as anticipated by Foodman. The basis for rejecting Claim 25 was set forth on page 6, line 19 of that Office Action and merely stated “Re claims 20-31, see analysis in claims 1-19.” The referenced analysis of Claims 1-19 extends from page 4, line 1 through page 6, line 18. However, not only did the Examiner fail to assert anywhere in the foregoing passage that Foodman teaches or suggests the “third network” recited in Claim 25, a cursory review of Foodman clearly indicates that the Examiner’s assertion that Foodman teaches the “first network” and the “second” network” recited in Claims 20-31 is equally without support. More specifically, in the Office Action dated September 4, 2004, the Examiner equated the Foodman’s system 311 to Applicants’ security gateway and Foodman’s website 321 to Applicants’ security system server. However, nowhere does Foodman disclose first and second networks coupling system 311 and website 321. Instead, Foodman discloses a single communication link 320 which couples system 311 and website 321.

When Applicants pointed out the foregoing deficiency in Foodman in their traversal of the rejection of Claims 20-37 in the Amendment filed January 3, 2005, the Examiner finally rejected Claims 20-37 as anticipated by Foodman for the reasons “set forth in the previous Office Action.” In the Examiner’s response to the Applicants’ arguments, however, the Examiner chose

to recast the prior characterization of Foodman to instead assert that security system 311 and website 321 collectively form the security gateway and multiple remote locations 31, 323, 325, 327, 329, 330 and 331 collectively form the security system server. The Examiner further asserted that the single network used to couple the website 321 to the multiple remote locations 31 and 323-331 anticipated the first and second networks used to couple the security gateway and the security system server.

Notwithstanding the issues as to whether the Examiner's rejection can still be properly characterized as an anticipation rejection or whether the art suggests the modification of a website coupled to multiple locations by a first network to disclose a website couple to a single location by multiple networks, the Examiner's remarks dealt a fatal blow to the prior analysis of Foodman set forth in the Office Action dated September 2, 2004. Specifically, even if the Examiner is allowed to characterize Foodman's teaching of a single network coupling website 321 and remote locations 31 and 323-331 as teaching two networks coupling the system 311/website 321 and the remote locations 31 and 323-331, by equating the system 311 and the website 321 to Applicants' claimed security gateway, the Examiner's prior assertion that Foodman discloses a network, coupling the system 311 and the website 321, over which alarm video is transferred, is no longer supportable. In other words, in order to find a "third" network in Foodman, the Examiner was, in effect, obliged to eliminate the "first" network.

Respectfully submitted,
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